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MESSAGE: PLEASE SEE ATTACHED COURTESY COPY OF A RESPONSE TO THE AUGUST 12, 2004 OFFICE ACTION THAT WE FILED VIA FACSIMILE ON JANUARY 7, 2005. IF YOU HAVE ANY QUESTIONS OR COMMENTS, PLEASE CONTACT ME.

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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : John T. Ziegenhorn et al.
Appl. No. : 09/997,310
Filed : November 28, 2001
For : BARBEQUE COVER
SUPPORT DEVICE
Examiner : Renata D. McCloud
Group Art Unit : 2837

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January 7, 2005


Perry D. Oldham, Reg. No. 52,082RESPONSE TO OFFICE ACTION

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In response to an Office Action dated August 12, 2004, please amend the above-identified application as follows:

Amendments to the Claims are reflected in the listing of claims which begins on page 2 of this paper.

Remarks/Arguments begin on page 8 of this paper.

Appl. No. : 09/997,310
Filed : November 28, 2001

AMENDMENTS TO THE CLAIMS

1. (currently amended) An apparatus for grilling, comprising:

a grill having an upper surface and a lower surface, the lower surface being adapted for receiving heat from a heating source and the upper surface being adapted for transmitting heat for grilling;

a cover having an interior surface and an exterior surface, wherein the cover comprises a rear portion, a front portion, and a lateral portion;

a hollow cavity between the interior surface of the cover and the upper grilling surface, such that when the cover is substantially closed, objects on the grilling surface do not contact the interior surface of the cover;

an opening formed between the front and lateral portions of the cover and the upper grilling surface, the opening being adjustable by rotation of the cover;

a motor coupled to the rear portion of the cover, said motor operating to adjust the opening between the cover and the upper grilling surface; and

a motor controller for adjusting the opening, wherein the motor and motor controller are configured to adjust the size of the opening during cooking to vary cooking conditions.

2. (canceled)

3. (previously presented) The apparatus of Claim 1, wherein the motor controller comprises a remote control for transmitting control signals to said motor.

4. (previously presented) The apparatus of Claim 3, wherein said remote control transmits start and stop signals to said motor.

5. (original) The apparatus of Claim 4, wherein said motor operates only during the transmission of control signals to said motor.

6. (original) The apparatus of Claim 4, wherein said remote control transmits signals to control flow of a combustible fuel.

7. (previously presented) The apparatus of Claim 1, wherein said motor is removable from the cover; wherein removal of the motor does not prevent use of the grill.

8. (original) The apparatus of Claim 1, wherein said motor is battery powered.

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9. (currently amended) The apparatus of Claim 1, wherein said motor stops movement of the cover at a ~~point within a full range of the cover movement~~ position between fully open and fully closed.

10. (canceled)

11. (canceled)

12. (currently amended) A cooking apparatus, comprising:

a grilling surface;

a heating source for transmitting heat to the grilling surface;

a cover that provides a hollow chamber having an adjustable opening over said grilling surface;

a motor coupled to said cover, said motor operating to adjust the opening between said cover and said grilling surface; and

a remote control that transmits a control signal to said motor, wherein the control signal causes the opening to vary in size during cooking, thereby varying the cooking conditions.

13. (canceled)

14. (previously presented) The cooking apparatus of Claim 12, wherein said remote control transmits start and stop signals to said motor.

15. (previously presented) The cooking apparatus of Claim 12, wherein said motor operates only during the transmission of control signals to said motor.

16. (previously presented) The cooking apparatus of Claim 12, wherein said remote control transmits signals to control flow of a combustible fuel.

17. (original) The cooking apparatus of Claim 12, further comprising a counterweight attached at the rear of the cover.

18. (previously presented) The cooking apparatus of Claim 12, wherein said motor is detachable.

19. (original) The cooking apparatus of Claim 12, wherein said motor is battery powered.

20. (currently amended) The cooking apparatus of Claim 12, wherein said motor stops movement of the cover at a ~~point within a full range of the cover movement~~ position between fully open and fully closed.

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21. (canceled)

22. (canceled)

23. (currently amended) A method of controlling the opening of a hollow chamber between a cover and a grilling surface, comprising:

transmitting heat to the grilling surface;

causing a motor to operate upon receiving a first signal; said motor coupled to the cover such that operation of said motor causes an adjustment in the placement of the cover over the grilling surface, wherein adjusting the placement of the cover varies the cooking conditions; and

causing said motor to stop operating upon receiving a second signal.

24. (original) The method of Claim 23, wherein activating a first control generates said first signal.

25. (original) The method of Claim 24, wherein releasing said first control generates said second signal.

26. (original) The method of Claim 24, wherein activating a second control generates said second signal.

27. (original) An apparatus for attaching a motor to a cover of a grilling surface, comprising:

a motor support beam having an adjustable length, said motor support beam comprising a motor attachment surface for attachment to the motor and at least one base attachment surface for attachment to a support base of the grilling surface.

28. (currently amended) The apparatus of Claim 27, further comprising a counterweight having ~~an~~ a cover attachment surface for attachment of said counterweight to the cover of the grilling surface.

29. (original) The apparatus of Claim 28, further comprising a coupling rod for attaching the motor to said counterweight

30. (original) The apparatus of Claim 27, further comprising a coupling rod for coupling the motor to the cover of the grilling surface.

31. (original) The apparatus of Claim 27, wherein said motor support beam comprises a first portion insertable into a second portion.

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32. (original) The apparatus of Claim 31, wherein said first portion has a threaded exterior portion, and said second portion has a threaded interior portion, the length of said motor beam being determined by turning said first portion with respect to said second position.

33. (original) The apparatus of Claim 31, wherein said motor support beam further comprises a spring member that presses said first portion away from said second portion.

34. (original) The apparatus of Claim 31, wherein at least one of said first portion and said second portion has a plurality of holes, the length of said motor beam being determined by inserting a pin through one of said plurality of holes.

35. (original) The apparatus of Claim 31, wherein the motor suspends from said motor support beam.

36. (previously presented) The apparatus of Claim 1, wherein the cover is cupped over the upper grilling surface.

37. (canceled)

38. (new) An apparatus for grilling, comprising:

- a grill having an upper surface and a lower surface, the lower surface being adapted for receiving heat from a heating source and the upper surface being adapted for transmitting heat for grilling;

- a cover having an interior surface and an exterior surface;

- a hollow cavity between the interior surface of the cover and the upper grilling surface, such that when the cover is substantially closed, objects on the grilling surface do not contact the interior surface of the cover;

- a motor coupled to a rear portion of the cover, said motor operating to adjust the opening between the cover and the upper grilling surface; and

- a counterweight attached at the rear portion of the cover.

39. (new) The apparatus of Claim 38, wherein the motor controller comprises a remote control for transmitting control signals to said motor.

40. (new) The apparatus of Claim 38, wherein said motor is battery powered.

41. (new) A cooking apparatus, comprising:

- a grilling surface;

- a cover that provides a hollow chamber having an adjustable opening over the grilling surface;

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a motor coupled to the cover, the motor operating to adjust the opening between the cover and the grilling surface; and

a counterweight coupled to the cover.

42. (new) The cooking apparatus of Claim 41, further comprising a remote control that transmits a control signal to the motor.

43. (new) The cooking apparatus of Claim 41, wherein the motor is battery powered.

44. (new) An apparatus for grilling, comprising:

a grill having an upper surface and a lower surface, the lower surface being adapted for receiving heat from a heating source and the upper surface being adapted for transmitting heat for grilling, wherein said lower grilling surface is heated by a charcoal briquette fueled heat source;

a cover having an interior surface and an exterior surface, wherein the cover comprises a rear portion, a front portion, and a lateral portion;

a hollow cavity between the interior surface of the cover and the upper grilling surface, such that when the cover is substantially closed, objects on the grilling surface do not contact the interior surface of the cover;

an opening formed between the front and lateral portions of the cover and the upper grilling surface, the opening being adjustable by rotation of the cover;

a motor coupled to the rear portion of the cover, said motor operating to adjust the opening between the cover and the upper grilling surface; and

a motor controller for adjusting the opening.

45. (new) An apparatus for grilling, comprising:

a grill having an upper surface and a lower surface, the lower surface being adapted for receiving heat from a heating source and the upper surface being adapted for transmitting heat for grilling, wherein said lower grilling surface is heated by a combustible gas fueled heat source;

a cover having an interior surface and an exterior surface, wherein the cover comprises a rear portion, a front portion, and a lateral portion;

a hollow cavity between the interior surface of the cover and the upper grilling surface, such that when the cover is substantially closed, objects on the grilling surface do not contact the interior surface of the cover;

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an opening formed between the front and lateral portions of the cover and the upper grilling surface, the opening being adjustable by rotation of the cover;

a motor coupled to the rear portion of the cover, said motor operating to adjust the opening between the cover and the upper grilling surface; and

a motor controller for adjusting the opening.

46. (new) A method of controlling the opening of a hollow chamber between a cover and a grilling surface, comprising:

causing a motor to operate upon receiving a first signal; said motor coupled to the cover such that operation of said motor causes an adjustment in the placement of the cover over the grilling surface, wherein the placement of the cover controls an amount of smoke generated from combustion of a wood product; and

causing said motor to stop operating upon receiving a second signal.

47. (new) The apparatus of Claim 1, wherein the cover is maintained in a partially open position during cooking.

48. (new) The apparatus of Claim 1, wherein the cover can be maintained at any position between fully open and fully closed.

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REMARKS

This communication is responsive to an August 12, 2004 Office Action. With this amendment, Claims 1, 3-9, 12, 14-20, 23-36 and 38-48 are pending in this application. Applicants gratefully acknowledge allowance of Claims 27-35. Claims 2, 10, 11, 17 and 37, although objected to as being dependent upon rejected base claims, were also indicated as being allowable if rewritten in independent form. New independent Claims 38, 41, 44, 45 and 46 correspond to claims 2, 10, 11, 17 and 37, respectively.

Claims 12, 14-16, 18, 20, 21, 23, 24, 26 and 36 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,713,741 to Miller (hereinafter "Miller"). Claims 1, 3-7 and 9 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent 5,058,493 to Basek et al. (hereinafter "Basek") in view of in view of Miller. Claim 19 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Miller in view of in view of U.S. Patent 5,779,032 to Iimura et al. (hereinafter "Iimura").

Summary of Interview

Applicants would like to thank Examiner McCloud and Examiner Martin for the courtesies extended to Applicant John Ziegenhorn and Applicants' counsel William B. Bunker, in a December 16, 2004 interview. In accordance with MPEP § 713.04, a summary of the interview follows. A video presentation of a working embodiment was presented. Miller and Basek were discussed, and agreement was reached that amendments claiming opening and closing the cover during cooking would overcome the rejections to Claims 1 and 12.

New Claims

Newly added dependent claims 47 and 48 depend from Claim 1 and recite additional features not found in the prior art.

Newly added independent Claims 38 and 41 correspond to dependent Claims 2 and 17, respectively, as previously presented in an October 20, 2003 Response to Office Action. By placing the claims in independent form, Applicants believe the objections from the January 24, 2004 Office Action are overcome.

Newly added independent Claims 44, 45 and 46 correspond to dependent Claims 10, 11 and 37, respectively, as presented in a May 21, 2004 Amendment. By placing the claims in independent form, Applicants believe the objections to these claims are overcome.

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Dependent claims 2, 10, 11, 17 and 37 are canceled with this amendment.

Amendments

Claims 12, 14-16, 18, 20, 21, 23, 24, 26 and 36 were rejected under 35 U.S.C. § 102(e) as being anticipated by Miller. Claims 1, 3-7 and 9 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Basek in view of Miller. Claim 19 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Miller in view of Iimura.

Applicants respectfully traverse the rejections. Miller discloses a "programmable logic center operable to *prevent the oven heat source from heating* the at least one food item *when* either the entrance door or the exit door is in one of the plurality of *open* positions." Miller at 3:48-51; *see also* 4:38-42; 2:10-22. Miller teaches away from adjusting the size of the opening during cooking, and there would be no motivation to combine the teachings of Miller with either Basek or Iimura. In addition, an entrance door or an exit door as disclosed in Miller does not anticipate, for example, a cover that provides a hollow chamber having an adjustable opening or a motor coupled to the cover.

Applicants have amended the claims as discussed during the interview, and canceled Claim 21. It is believed that all outstanding rejections are overcome, and Applicants respectfully submit that the application is in condition for allowance. Although these amendments are believed to overcome the outstanding rejections, Applicants reserve the right to swear behind the filing date of Miller, thereby removing it as a prior art reference under 35 U.S.C. § 102(e).

Applicants also made minor amendments to Claims 9, 20 and 28.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

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CONCLUSION

Applicants have endeavored to address all of the Examiner's concerns as expressed in the outstanding Office Action. In view of the foregoing amendments and remarks, Applicants submit that the claims are patentably distinct from the cited art, and respectfully request reconsideration and withdrawal of the outstanding rejections.

Arguments made with respect to specified claims apply only to those claims in this application and not other currently pending or later added claims in this or other applications. The amendment of a claim is not to be construed as acquiescence or admission that the cited art discloses the claim as previously read, and Applicants reserve the right to pursue such claims in a continuation or divisional application. Applicants traverse the original objections but have amended the claims in an effort to advance prosecution. Patentability is based on the claim as a whole, notwithstanding only a portion thereof is argued in support of novelty or non-obviousness. Any claim amendments that are not specifically discussed in the above remarks are not made for patentability purposes, and it is believed that the claims would satisfy the statutory requirements for patentability without entry of such amendments.

If the Examiner finds any remaining impediment to the prompt allowance of these claims that could be clarified with a telephone conference, the Examiner is respectfully requested to initiate the same with the undersigned attorney of record at his direct dial number of (949) 721-2961.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: January 7, 2005

By: Perry D. Olkham
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PDO-2427.DOC
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Docket No.: ZIEG.001A

Customer No.: 20,995

AMENDMENT / RESPONSE TRANSMITTAL

Applicant : John T. Ziegenhorn et al.
 App. No. : 09/997,310
 Filed : November 28, 2001
 For : BARBEQUE COVER SUPPORT
 DEVICE
 Examiner : Renata D. McCloud
 Art Unit : 2837

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January 7, 2005

(Date)

Perry D. Oldham
 Perry D. Oldham, Reg. No. 52,082

Mail Stop Amendment
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

Sir:

Transmitted herewith for filing in the above-identified application are the following enclosures:

(X) Response to Office Action in 10 pages.

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FEE TYPE		FEE CODE	CALCULATION	TOTAL
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Perry D. Oldham

Perry D. Oldham
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